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**IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

ASHKAN FARAZMAND, derivatively  
on behalf of BIRD GLOBAL, INC.,

Plaintiff,

v.

TRAVIS VANDERZANDEN, YIBO  
LING, ROELOF F. BOTHA, DANIEL  
FRIEDLAND, NATHANIEL JUSTIN  
KAN, ROBERT KOMIN, JAMES  
MUTRIE, RACQUEL RUSSELL,  
DAVID SACKS, SCOTT MCNEILL,  
CHRIS CARTER, SCOTT  
GIESELMAN, SAM STOUTNER,  
PHILIP J. DEUTCH, RAY KUBIS, and  
PRECIOUS WILLIAMS OWODUNNI,

Defendants,

and

BIRD GLOBAL, INC.,

Nominal Defendant.

Case No.:

DEMAND FOR JURY TRIAL

**VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT**

## **INTRODUCTION**

Plaintiff Ashkan Farazmand (“Plaintiff”), by his undersigned attorneys, derivatively and on behalf of Nominal Defendant Bird Global, Inc. (“Bird” or the “Company”), files this Verified Shareholder Derivative Complaint against defendants Travis VanderZanden (“VanderZanden”), Yibo Ling (“Ling”), Roelof F. Botha (“Botha”), Daniel Friedland (“Friedland”), Nathaniel Justin Kan (“Kan”), Robert Komin (“Komin”), James Mutrie (“Mutrie”), Racquel Russell (“Russell”), David Sacks (“Sacks”), Scott McNeill (“McNeill”), Chris Carter (“Carter”), Scott Gieselman (“Gieselman”), Sam Stoutner (“Stoutner”), Philip J. Deutch (“Deutch”), Ray Kubis (“Kubis”), and Precious Williams Owodunni (“Owodunni”) (collectively, the “Individual Defendants,” and together with Bird, the “Defendants”) for breaches of their fiduciary duties as controlling shareholder, directors and/or officers of Bird, unjust enrichment, abuse of control, gross mismanagement, waste of corporate assets, violations of Section 14(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), and against Defendants VanderZanden and Ling for contribution under Sections 10(b) and 21D of the Exchange Act. As for Plaintiff’s complaint against the Defendants, Plaintiff alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Plaintiff’s attorneys, which included, among other things, a review of the Defendants’ public documents, conference calls and announcements made by Defendants, United States Securities and Exchange Commission (“SEC”) filings, wire and press releases published by and regarding Bird, legal filings, news reports, securities analysts’ reports and advisories about the Company, and information readily obtainable on the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

## **NATURE OF THE ACTION**

1           1. This is a shareholder derivative action that seeks to remedy wrongdoing  
2 committed by Bird's controlling shareholder, directors, and/or officers from May 14, 2021  
3 through November 14, 2022, both dates inclusive (the "Relevant Period").

4           2. Based in Miami, Florida, Bird is an electric vehicle company engaged in the  
5 business of providing affordable, environmentally friendly electric bikes and scooters for  
6 short-term rental to communities in over 400 cities.

7           3. Bird's offerings consist of its core vehicle-sharing business and operations  
8 ("Sharing") and its sale of Bird-designed vehicles for personal use. For the years ended  
9 December 31, 2021 and 2020, 91% and 85%, respectively, of Bird's total revenue was  
10 generated from Bird's Sharing business.

11           4. Bird's Sharing business provides riders with on-demand access to Bird  
12 vehicles through Bird's mobile application. Revenue is generated in the form of ride fees  
13 from trips taken by customers. For a single ride, riders usually pay a standard unlock fee  
14 in addition to a per-minute price for each minute the vehicle is unlocked. Once the rider  
15 confirms parking compliance, the mobile application processes the payment.

16           5. The Company was incorporated under the laws of Delaware on May 4, 2021  
17 as a wholly owned subsidiary of Bird Rides, Inc. ("Bird Rides") for the purpose of entering  
18 into the Business Combination Agreement, dated as of May 11, 2021, by and among  
19 Switchback II Corporation ("Switchback"), Maverick Merger Sub Inc., a wholly owned  
20 subsidiary of Switchback ("Merger Sub"), Bird Rides, and the Company.

21           6. Switchback was a special purpose acquisition company ("SPAC") formed on  
22 October 7, 2020 to raise money through an initial public offering ("IPO") for the eventual  
23 acquisition of an existing company. On January 8, 2021, Switchback's shares began trading  
24 on the NYSE under the ticker symbol "SWBK.U." On January 12, 2021, Switchback's IPO  
25 was completed, resulting in gross proceeds of approximately \$316.3 million.

26           7. On November 3, 2021, the Company merged with and into Switchback, with  
27 the Company continuing as the surviving entity (the "Business Combination"). On  
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1 November 4, 2021, Merger Sub merged with and into Bird Rides, with Bird Rides  
2 continuing as the surviving entity and as a wholly owned subsidiary of the Company.

3 8. Throughout the Relevant Period, the Individual Defendants caused the  
4 Company to improperly record revenue on certain trips completed by customers of the  
5 Company's Sharing business. Accordingly, several of the Company's annual and quarterly  
6 financial reports filed with the SEC on Form 10-Ks and 10-Qs overstated the Company's  
7 Sharing revenue for the relevant fiscal quarters and year during the Relevant Period and  
8 also failed to disclose that the Company's internal controls were ineffective as they related  
9 to the recognition of Sharing revenue.

10 9. The truth emerged on November 14, 2022 when the Company issued a press  
11 release announcing that its disclosure controls and procedures were not effective at a  
12 reasonable assurance level due to a material weakness in connection with the preparation  
13 of the Company's financial statements related to its business system configuration that  
14 impacted the recognition of revenue on certain trips completed by customers of the  
15 Company's Sharing business for which collectability was not probable. For certain  
16 customers with insufficient preloaded "wallet" balances, the Company's business systems  
17 improperly recorded revenue for uncollected balances that should not have been recorded,  
18 resulting in an overstatement of Sharing revenue and an understatement of deferred  
19 revenue.

20 10. The November 14, 2022 press release specifically stated that the following of  
21 the Company's financial statements included in the Company's required periodic reports  
22 filed with the SEC should no longer be relied upon: (1) its audited consolidated financial  
23 statements as of December 31, 2021 and 2020, and for the years then ended, and quarterly  
24 periods within those years, included in the 10-K filed on March 15, 2022; (2) its condensed  
25 consolidated financial statements as of March 31, 2022, and for the three months then  
26 ended, included in the 10-Q filed on May 16, 2022; and (3) its condensed consolidated  
27 financial statements as of June 30, 2022, and for the three and six months then ended,  
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1 included in the 10-Q filed on August 15, 2022, and each quarterly or annual period covered  
2 therein (collectively, the “Original Filings”). The November 14, 2022 press release also  
3 stated that any previously furnished or filed reports, related earnings releases, investor  
4 presentations or similar communications of the Company describing its financial results  
5 contained in the Original Filings should no longer be relied upon. The press release further  
6 stated that the Company was in the process of designing and implementing controls to  
7 remediate the deficiencies.

8 11. On this news, the Company’s share price dropped \$0.069 (or 15.9%) from a  
9 close of \$0.433 per share on Friday, November 11, 2022 to a close of \$0.364 per share on  
10 Monday, November 14, 2022.

11 12. During the Relevant Period, the Individual Defendants breached their  
12 fiduciary duties by causing the Company to make a series of materially false and/or  
13 misleading statements regarding the Company’s business, operations, and prospects.  
14 Specifically, the Individual Defendants willfully or recklessly made and/or caused the  
15 Company to make false and misleading statements that failed to disclose, *inter alia*, that:  
16 (1) the Company was inaccurately recording Sharing revenue on certain trips taken by  
17 customers of the Company’s Sharing business; (2) as a result, the Company was overstating  
18 its Sharing revenue to the investing public; (3) the Company’s internal controls were  
19 ineffective and inadequate in terms of accurately recording and reporting Sharing revenue;  
20 (4) accordingly, the Company was in need of restating the Sharing revenue it reported as  
21 having earned in its SEC filings throughout the Relevant Period; and (5) the Company  
22 failed to maintain internal controls. As a result of the foregoing, the Company’s public  
23 statements were materially false and misleading at all relevant times.

24 13. The Individual Defendants failed to correct and/or caused the Company to fail  
25 to correct these false and misleading statements and omissions of material fact, rendering  
26 them personally liable to the Company for breaching their fiduciary duties.  
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16. In light of the Individual Defendants’ misconduct, which has subjected the Company, the Chairman of Bird’s Board of Directors (the “Board”), and its former Chief Financial Officer (“CFO”) to being named as defendants in a consolidated federal securities class action lawsuit pending in the United States District Court for the Central District of California (the “Securities Class Action”), the need to undertake internal investigations, the need to implement adequate internal controls over its financial reporting, the losses from the waste of corporate assets, the losses due to the unjust enrichment of the Individual Defendants who were improperly over-compensated by the Company and/or who benefitted from the wrongdoing alleged herein, the Company will have to expend many millions of dollars.

## JURISDICTION AND VENUE

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(15 U.S.C. § 78n(a)(1)), Rule 14a-9 of the Exchange Act (17 C.F.R. § 240.14a-9), and Section 21D of the Exchange Act, 15 U.S.C. § 78u-4(f).

19. Plaintiff's claims also raise a federal question pertaining to the claims made in the Securities Class Action based on violations of the Exchange Act.

20. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a).

21. This derivative action is not a collusive action to confer jurisdiction on a court of the United States that it would not otherwise have.

22. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial portion of the transactions and wrongs complained of herein occurred in this District, and the Defendants have received substantial compensation in this District by engaging in numerous activities that had an effect in this District.

23. Venue is proper in this District because Defendants have conducted business in this District, and Defendants' actions have had an effect in this District.

## **PARTIES**

### **Plaintiff**

24. Plaintiff is a current shareholder of Bird. Plaintiff has continuously held Bird common stock at all relevant times.

### **Nominal Defendant Bird**

25. Bird is a Delaware corporation with its principal executive offices at 392 NE 191st Street #20388, Miami, Florida 33179. Bird's shares trade on the New York Stock Exchange ("NYSE") under the ticker symbol "BRDS."

### **Defendant VanderZanden**

26. Defendant VanderZanden has served as the Company's Chairman of the Board since November 4, 2021. He served as the Company's President from November 4, 2021 until June 29, 2022. He also served as the Company's Chief Executive Officer ("CEO") from November 4, 2021 until September 21, 2022. Defendant VanderZanden



1 founded Bird Rides in 2017, and previously served as President and CEO and as a director  
2 of Bird Rides from 2017 until November 4, 2021. According to the Company's proxy  
3 statement filed on Schedule 14A with the SEC on April 26, 2022 (the "2022 Proxy  
4 Statement"), as of April 13, 2022, Defendant VanderZanden beneficially owned  
5 35,657,642 shares of the Company's common stock, which represented 12.8% of the  
6 Company's outstanding shares of common stock on that date. As Defendant  
7 VanderZanden's beneficial ownership of Company stock entitles him to a combined voting  
8 power of 74%, he is considered a controlling shareholder. Given that the price per share of  
9 the Company's common stock at the close of trading on April 13, 2022 was \$2.10,  
10 Defendant VanderZanden owned approximately \$74.9 million worth of Bird stock.

11 27. For the fiscal year ended December 31, 2021, Defendant VanderZanden  
12 received \$155,740,116 in total compensation, including \$1,116 in salary, \$155,738,700 in  
13 stock awards, and \$300 in all other compensation.

14 28. The Company's 2022 Proxy Statement stated the following about Defendant  
15 VanderZanden:

16 Travis VanderZanden has served as our President and Chief Executive  
17 Officer since the consummation of the Business Combination, and  
18 serves as the Chair of our Board of Directors. Mr. VanderZanden is also  
19 the founder of Bird Rides, and has served as President and Chief  
20 Executive Officer, and as a director of Bird Rides since 2017. Prior to  
21 founding Bird Rides, Mr. VanderZanden held several leadership  
22 positions in the ride-sharing and transportation industries, serving as  
23 Chief Operating Officer of Lyft and as a Vice President at Uber. Mr.  
24 VanderZanden also founded the on-demand car washing company,  
25 Cherry, which was acquired by Lyft, and was Chief Revenue Officer  
26 and the first hire at Yammer, a business software company acquired by  
27 Microsoft. Mr. VanderZanden has long been inspired to work on last-  
28 mile transportation solutions in large part because of his lifelong  
admiration for his mother, who drove a public bus for more than 30  
years in his home state of Wisconsin. Mr. VanderZanden has an MBA  
from the University of Southern California and a B.S. in Business  
Administration from the University of Wisconsin, Eau Claire. We  
believe that Mr. VanderZanden is qualified to serve on our Board



because of his experience founding and leading Bird Rides, and extensive experience in the ride-sharing and transportation industries.

### **Defendant Ling**

29. Defendant Ling served as the Company's CFO from November 4, 2021 until September 21, 2022. He previously served as Bird Rides' CFO from April 2019 until November 4, 2021 and as Bird Rides' Vice President, Business & Corporate Development from October 2018 until April 2019. According to the 2022 Proxy Statement, as of April 13, 2022, Defendant Ling beneficially owned 3,076,989 shares of the Company's common stock, which represented 1.2% of the Company's outstanding shares of common stock on that date. Given that the price per share of the Company's common stock at the close of trading on April 13, 2022 was \$2.10, Defendant Ling owned approximately \$6.5 million worth of Bird stock.

30. For the fiscal year ended December 31, 2021, Defendant Ling received \$18,455,391 in total compensation, including \$300,000 in salary, \$18,153,891 in stock awards, and \$1,500 in all other compensation.

31. During the Relevant Period, when the Company materially misstated information to the investing public to keep the stock price inflated, and before the scheme was exposed, Defendant Ling made the following sales of Company stock:

<b>Date</b>	<b>Number of Shares</b>	<b>Price Per Share</b>	<b>Proceeds</b>
September 6, 2022	200,365	\$0.43	\$85,555
May 27, 2022	496,203	\$0.78	\$389,023

Thus, in total before the fraud was exposed, he sold 696,568 Company shares on inside information, for which he received \$474,578. His insider sales, made with knowledge of material non-public information before the material misstatements and omissions were exposed, demonstrate his motive in facilitating and participating in the scheme.

32. The Company's 2022 Proxy Statement stated the following about Defendant Ling:

Yibo Ling has served as our Chief Financial Officer since the consummation of the Business Combination. Prior to the Business

1 Combination, Mr. Ling served as Chief Financial Officer of Bird Rides  
2 since April 2019, and as Vice President, Business & Corporate  
3 Development of Bird Rides from October 2018 to April 2019. Mr. Ling  
4 oversees the Company's accounting, tax, treasury, financial planning,  
5 and analysis functions. Prior to joining Bird Rides in October 2018, Mr.  
6 Ling spent four years in the ride-sharing industry as Uber's Director of  
7 Corporate Development, managing corporate strategy, mergers and  
8 acquisitions, and Uber's global expansion to China. Mr. Ling  
9 previously worked as a Project Leader at the Boston Consulting Group,  
10 where he helped technology and financial services clients operate more  
11 efficiently. Mr. Ling received a PhD in Medical and Electrical  
12 Engineering and a M.S. in Electrical Engineering and Computer  
13 Science from The Massachusetts Institute of Technology, and a B.S. in  
14 Biomedical Engineering from the University of Michigan.

15 **Defendant Botha**

16 33. Defendant Botha served as a Company director from November 4, 2021 until  
17 December 19, 2022. He previously served as a director of Bird Rides from 2018 until  
18 November 4, 2021. According to the 2022 Proxy Statement, as of April 13, 2022,  
19 Defendant Botha beneficially owned 33,639 shares of the Company's common stock.  
20 Given that the price per share of the Company's common stock at the close of trading on  
21 April 13, 2022 was \$2.10, Defendant Botha owned approximately \$70,642 worth of Bird  
22 stock.

23 34. The Company's 2022 Proxy Statement stated the following about Defendant  
24 Botha:

25 Roelof F. Botha has served on our Board since the consummation of the  
26 Business Combination, and prior to the Business Combination served as a  
27 director of Bird Rides since 2018. Since January 2003, Mr. Botha has served  
28 in various positions at Sequoia Capital, a venture capital firm, including as a  
Managing Member since 2007 and most recently, as Senior Steward of the  
firm's global brand and operations beginning in July 2022. From 2000 to 2003,  
Mr. Botha served in various positions at PayPal, a payment processing and  
financial services company, including as Chief Financial Officer. Mr. Botha  
has served on the board of directors of Eventbrite, Inc., a global platform for  
live experiences, since 2009, MongoDB, a cross-platform database program,  
since 2013, Square, Inc. a provider of payment processing and financial and

1 marketing services, since 2011, Unity Software, Inc., a company that provides  
2 a 3D and VR content development platform, since 2009, and Natera, a genetic  
3 testing company, since 2007. He also currently serves on the boards of  
4 directors of a number of privately held companies. Mr. Botha previously  
5 served on the board of directors of Xoom Corporation from May 2005 until  
6 its acquisition by PayPal in 2015. Mr. Botha holds an MBA from the Stanford  
7 University Graduate School of Business and a B.S in Actuarial Science,  
8 Economics and Statistics from the University of Cape Town. We believe that  
9 Mr. Botha is qualified to serve as a member of our Board due to his history  
10 with Bird Rides, knowledge of the micromobility industry, and experience  
11 serving on the boards of directors of public companies.

12 **Defendant Friedland**

13 35. Defendant Friedland served as a Company director from November 4, 2021  
14 until December 19, 2022. He previously served as a director of Bird Rides from 2017 until  
15 November 4, 2021. According to the 2022 Proxy Statement, as of April 13, 2022,  
16 Defendant Friedland beneficially owned 19,685,378 shares of the Company's common  
17 stock, which represented 8.1% of the Company's outstanding shares of common stock on  
18 that date. Given that the price per share of the Company's common stock at the close of  
19 trading on April 13, 2022 was \$2.10, Defendant Friedland owned approximately \$41.3  
20 million worth of Bird stock.

21 36. The Company's 2022 Proxy Statement stated the following about Defendant  
22 Friedland:

23 Daniel Friedland has served on our Board since the consummation of  
24 the Business Combination, and prior to the Business Combination  
25 served as a director of Bird Rides since 2017. Mr. Friedland is the co-  
26 founder and Managing Director of Goldcrest Capital, a venture capital  
27 fund. Previously, Mr. Friedland was an attorney and partner at the law  
28 firm Orrick, Herrington & Sutcliffe LLP. Mr. Friedland received his  
B.A. from Stanford University, graduating Phi Beta Kappa, and his J.D.  
from Stanford Law School. We believe that Mr. Friedland is qualified  
to serve as a member of our Board due to his history with Bird Rides  
and knowledge of the micromobility industry.

**Defendant Kan**

37. Defendant Kan served as a Company director from November 4, 2021 until September 21, 2022. He previously served as a director of Bird Rides from 2017 until November 4, 2021. According to the 2022 Proxy Statement, as of April 13, 2022, Defendant Kan beneficially owned 582,830 shares of the Company's common stock. Given that the price per share of the Company's common stock at the close of trading on April 13, 2022 was \$2.10, Defendant Kan owned approximately \$1.2 million worth of Bird stock.

38. The Company's 2022 Proxy Statement stated the following about Defendant Kan:

Nathaniel Justin Kan has served on our Board since the consummation of the Business Combination, and prior to the Business Combination served as a director of Bird Rides since 2017. Mr. Kan is an American Internet entrepreneur and investor best known as the cofounder of Twitch, the internet live video streaming platform. In 2006, Mr. Kan launched the live video service Justin.tv, a company that started when he strapped a camera to his head and streamed his life to the internet 24/7. Over the next eight years, through twists and turns, he and his cofounders turned the business into Twitch, ultimately selling to Amazon in 2014 for \$970 million. From 2017 to 2020, Mr. Kan was the Chief Executive Officer of Legal Technology Services Inc. Mr. Kan has served as a Partner at Goat Capital since 2020 and as a director at ScriptDash Inc. (dba Alto Pharmacy) since 2015, Flirtey Inc. since 2018, Long Game Inc. since 2020, ZeroCater Inc. since 2017, Scotty Inc. since 2017, and Vy Global Growth since 2020. Mr. Kan holds a B.A. in Physics and Philosophy from Yale University. We believe that Mr. Kan is qualified to serve as a member of our Board due to his history with Bird Rides and his experience building consumer internet businesses at scale and investing across a broad number of technology sub-sectors.

**Defendant Komin**

39. Defendant Komin has served as a Company director since November 4, 2021. He previously served as a director of Bird Rides from June 2021 until November 4, 2021. According to the 2022 Proxy Statement, as of April 13, 2022, Defendant Komin

1 beneficially owned 33,333 shares of the Company's common stock. Given that the price  
2 per share of the Company's common stock at the close of trading on April 13, 2022 was  
3 \$2.10, Defendant Komin owned approximately \$70,000 worth of Bird stock.

4 40. For the fiscal year ended December 31, 2021, Defendant Komin received  
5 \$741,767 in total compensation, including \$16,767 in fees earned or paid in cash and  
6 \$725,000 in stock awards.

7 41. The Company's 2022 Proxy Statement stated the following about Defendant  
8 Komin:

9 Robert Komin has served on our Board since the consummation of the  
10 Business Combination, and prior to the Business Combination served  
11 as a director of Bird Rides since June 2021. Mr. Komin also serves as  
12 our Lead Independent Director. Mr. Komin previously served as Chief  
13 Financial Officer of Sunrun Inc., the leading residential solar and  
14 storage company in the United States, from March 2015 through May  
15 2020, and then continued as a consultant until January 2021. From  
16 September 2013 to January 2015, Mr. Komin served as Chief Financial  
17 Officer at Flurry, Inc., a mobile analytics and advertising company.  
18 From August 2012 to August 2013, Mr. Komin served as Chief  
19 Financial Officer at Ticketfly, Inc., a music ticketing and marketing  
20 services provider. From January 2010 to July 2012, Mr. Komin served  
21 as Chief Operating Officer and Chief Financial Officer at Linden  
22 Research, Inc., a creator of virtual digital entertainment and  
23 cybocurrency. Previously, Mr. Komin served as Chief Financial  
24 Officer at Solexel, Inc., a thin-silicon solar company, Tellme Networks,  
25 Inc., a speech recognition applications company, and XOR, Inc., a  
26 business application solution provider. Mr. Komin serves as a member  
27 of the Board of Trustees of the University of Oregon Foundation, as its  
28 audit and risk committee chairman, and as a member of its executive  
and investment committees. Mr. Komin holds a B.S. in Accounting and  
General Science from the University of Oregon and an MBA from  
Harvard Business School. We believe that Mr. Komin is qualified to  
serve as a member of our Board due to his history with Bird Rides,  
financial expertise and extensive experience with public companies.

**Defendant Mutrie**

1           42. Defendant Mutrie has served as a Company director since November 4, 2021.  
2 He co-founded Switchback in 2020 and previously served as Switchback's Co-CEO from  
3 December 2020 until November 4, 2021 and as a director of Switchback from October  
4 2020 until November 4, 2021. According to the 2022 Proxy Statement, as of April 13,  
5 2022, Defendant Mutrie beneficially owned 14,409,889 shares of the Company's common  
6 stock, which represented 5.9% of the Company's outstanding shares of common stock on  
7 that date. Given that the price per share of the Company's common stock at the close of  
8 trading on April 13, 2022 was \$2.10, Defendant Mutrie owned approximately \$30.3 million  
9 worth of Bird stock.

10           43. The Company's 2022 Proxy Statement stated the following about Defendant  
11 Mutrie:

12           James E. Mutrie has served on our Board since the consummation of  
13 the Business Combination. Previously, Mr. Mutrie was one of the co-  
14 founders of Switchback and was its Co-Chief Executive Officer since  
15 December 2020 and a member of its board of directors since October  
16 2020, in each case, until consummation of the Business Combination.  
17 Mr. Mutrie co-founded and serves as Co-Chief Executive Officer and a  
18 member of the board of directors of Switchback III Corporation. Mr.  
19 Mutrie also co-founded and served as Chief Commercial Officer,  
20 General Counsel, Secretary and a member of the board of directors of  
21 Switchback Energy Acquisition Corporation until the closing of its  
22 business combination with ChargePoint, Inc., an electric vehicle  
23 charging network provider committed to enabling the electrification of  
24 mobility for all people and goods. Mr. Mutrie served as Vice President,  
25 General Counsel, and Corporate Secretary of RSP Permian, Inc. from  
26 June 2014 through the completion of the acquisition of RSP by Concho  
27 Resources, Inc. in July 2018. Prior to RSP, Mr. Mutrie served as  
28 General Counsel and Compliance Officer at United Surgical Partners  
International. From October 2003 to January 2007, Mr. Mutrie  
practiced corporate law at Vinson & Elkins L.L.P., representing public  
and private companies in mergers and acquisitions and capital market  
offerings. Mr. Mutrie holds a B.A. from Cornell University, a J.D. from  
Northwestern University School of Law, a Certificate in Financial  
Management from Cornell University, and a Certificate in Financial  
Skills from SMU Cox School of Business, Executive Education. We



1 believe that Mr. Mutrie's extensive experience in managing public  
2 company mergers and acquisitions, financing transactions and  
3 corporate governance, including helping to grow a public company  
4 from its initial public offering to mid-market, as well as his extensive  
5 knowledge of the energy transition industry, brings important and  
6 valuable skills to our Board.

7 **Defendant Russell**

8 44. Defendant Russell has served as a Company director since November 4, 2021.  
9 She previously served as a director of Bird Rides from February 2021 until November 4,  
10 2021. According to the 2022 Proxy Statement, as of April 13, 2022, Defendant Russell  
11 beneficially owned 46,882 shares of the Company's common stock. Given that the price  
12 per share of the Company's common stock at the close of trading on April 13, 2022 was  
13 \$2.10, Defendant Russell owned approximately \$98,452 worth of Bird stock.

14 45. For the fiscal year ended December 31, 2021, Defendant Russell received  
15 \$758,711 in total compensation, including \$35,068 in fees earned or paid in cash and  
16 \$723,643 in stock awards.

17 46. The Company's 2022 Proxy Statement stated the following about Defendant  
18 Russell:

19 Racquel Russell has served on our Board since the consummation of  
20 the Business Combination, and prior to the Business Combination  
21 served as a director of Bird Rides since February 2021. Ms. Russell  
22 currently serves as Vice President of Partner Success for the Premier  
23 Agent division of Zillow, a role she has held since 2020. From 2015 to  
24 2020, Ms. Russell worked to build out Zillow's government relations  
25 and public affairs function. Prior to Zillow, Ms. Russell spent three  
26 years in the White House as top advisor to President Barack Obama,  
27 focused on building, communicating, and advancing the President's  
28 agenda on urban affairs and economic opportunity. Throughout her  
political career, Ms. Russell also held leadership positions for U.S.  
Senators Tom Carper and Bob Graham, as well as for the National  
Governors Association. Ms. Russell holds a B.S. in Communications  
from the University of Miami, and a J.D. from the George Washington  
University Law School. We believe that Ms. Russell is qualified to  
serve as a member of our Board due to her history with Bird Rides,



familiarity with similar business models, and experience navigating regulatory environments and protecting brand reputation.

**Defendant Sacks**

47. Defendant Sacks served as a Company director from November 4, 2021 until December 19, 2022. He previously served as a director of Bird Rides from 2017 until November 4, 2021. According to the 2022 Proxy Statement, as of April 13, 2022, Defendant Sacks beneficially owned 26,982,068 shares of the Company's common stock, which represented 11.0% of the Company's outstanding shares of common stock on that date. Given that the price per share of the Company's common stock at the close of trading on April 13, 2022 was \$2.10, Defendant Sacks owned approximately \$56.7 million worth of Bird stock.

48. The Company's 2022 Proxy Statement stated the following about Defendant Sacks:

David Sacks has served on our Board since the consummation of the Business Combination, and prior to the Business Combination served as a director of Bird Rides since 2017. Mr. Sacks is General Partner of Craft Ventures, a venture capital firm that he founded in 2017. Previously, Mr. Sacks was founding-era Chief Operating Officer of PayPal, founder/Chief Executive Officer of Yammer (acquired by Microsoft in 2012), and Chief Executive Officer of Zenefits. Mr. Sacks holds a B.A. in Economics from Stanford University and a J.D. from the University of Chicago Law School. In addition to Bird, Mr. Sacks sits on the boards of a number of private companies, including ClickUp, CloudTrucks, Datasembly, OpenPhone, Scratchpad, Sourcegraph, Thrive Cash (DBA X1), Trellis, and Vendr. We believe that Mr. Sacks is qualified to serve as a member of our Board due to his history with Bird Rides and extensive experience with growing and investing in companies.

**Defendant McNeill**

49. Defendant McNeill served as Co-CEO of Switchback from December 2020 until November 4, 2021 and as a member of the Switchback board from October 2020 until November 4, 2021.

1           50. The Company's registration statement filed on May 14, 2021 with the SEC  
2 on Form S-4 (the "Registration Statement") stated the following about Defendant McNeill:

3           Co-Chief Executive Officer and Director. Mr. McNeill is one of our co-  
4 founders and has been our Co-Chief Executive Officer since December  
5 2020 and a member of the Switchback Board since October 2020.  
6 Mr. McNeill co-founded and serves as Co-Chief Executive Officer and  
7 a member of the board of directors of Switchback III. Mr. McNeill  
8 also co-founded and served as Chief Executive Officer, Chief Financial  
9 Officer and a member of the board of directors of Switchback I until  
10 the closing of its business combination with ChargePoint. Mr. McNeill  
11 served as Chief Financial Officer of RSP from April 2013 through the  
12 completion of its acquisition by Concho in July 2018. Mr. McNeill also  
13 served as a member of the board of directors of RSP from December  
14 2013 through July 2018. Mr. McNeill joined RSP prior to its initial  
15 public offering in January 2014 and helped build the organization  
16 during its early growth phase while positioning it for its initial public  
17 offering. During Mr. McNeill's tenure at RSP, RSP executed over  
18 \$13 billion in M&A transactions and approximately \$7 billion of  
19 financings. Before joining RSP, Mr. McNeill served as a managing  
20 director in the energy investment banking group of Raymond James  
21 Financial, Inc., advising companies operating in the exploration and  
22 production, midstream, and energy service and equipment segments of  
23 the energy industry. Mr. McNeill holds a B.B.A from Baylor University  
24 and an M.B.A from The University of Texas at Austin and is a certified  
25 public accountant in the State of Texas.

26           **Defendant Carter**

27           51. Defendant Carter served as a member of the Switchback board from  
28 December 2020 until November 4, 2021.

          52. The Company's Registration Statement stated the following about Defendant  
Carter:

          Director. Mr. Carter has been a member of the Switchback Board since  
December 2020. Since January 2021, Mr. Carter has served as a  
member of the board of directors of Switchback III. Mr. Carter served  
as a member of the board of directors for Switchback I from May 2019  
until the closing of its business combination with ChargePoint.  
Mr. Carter joined NGP in 2004 and currently serves as Managing  
Partner and as a director of certain private NGP portfolio companies.

1 Prior to joining NGP, Mr. Carter was an analyst with Deutsche Bank's  
2 Energy Investment Banking group in Houston, where he focused on  
3 financing and merger and acquisition transactions in the oil and gas and  
4 oilfield services industries. Mr. Carter served on the Board of Directors  
5 of PennTex Midstream GP, LLC from June 2015 until November 2016  
6 and on the Board of Directors of Parsley Energy, Inc. from December  
7 2013 until January 2016. Mr. Carter also served on the Board of  
8 Directors of Rice Energy, Inc. from October 2013 through November  
9 2014. Mr. Carter received a B.B.A. and an M.P.A. in Accounting,  
10 summa cum laude, in 2002 from The University of Texas at Austin,  
11 where he was a member of the Business Honors Program. He received  
12 an M.B.A. in 2008 from Stanford University, where he graduated as  
13 an Arjay Miller Scholar.

14 **Defendant Gieselman**

15 53. Defendant Gieselman served as a member of the Switchback board from  
16 December 2020 until November 4, 2021.

17 54. The Company's Registration Statement stated the following about Defendant  
18 Gieselman:

19 Director. Mr. Gieselman has been a member of the Switchback Board  
20 since December 2020. Since January 2021, Mr. Gieselman has served  
21 as a member of the board of directors of Switchback III. Mr. Gieselman  
22 served as a member of the board of directors for Switchback I from May  
23 2019 until the closing of its business combination with ChargePoint.  
24 Mr. Gieselman has served as a Partner for NGP since April 2007.  
25 Mr. Gieselman serves as a director of certain private NGP portfolio  
26 companies. Prior to joining NGP, Mr. Gieselman worked in various  
27 positions in the investment banking energy group of Goldman Sachs &  
28 Co. LLC, where he became a partner in 2002. He has served on the  
board of directors of HighPoint Resources Corporation since March  
2018. Mr. Gieselman served on the board of directors of WildHorse  
Resource Development Corporation from September 2016 until it was  
acquired by Chesapeake Energy Corporation in February 2019 and  
served on the board of directors of Chesapeake Energy Corporation  
from May 2019 to November 2019. Mr. Gieselman also served as a  
member of the board of directors of Rice Energy, Inc. from January  
2014 until April 2017 and was a member of the board of directors of  
Memorial Resource Development Corp. from its formation until it was  
acquired by Range Resources Corporation in September 2016. In

1 addition, Mr. Gieselman served as a member of the board of directors  
2 of Memorial Production Partners GP LLC from December 2011 until  
3 March 2016. Mr. Gieselman received a B.S. in 1985 and an M.B.A. in  
4 1988 from Boston College.

4 **Defendant Stoutner**

5 55. Defendant Stoutner served as a member of the Switchback board from  
6 December 2020 until November 4, 2021.

7 56. The Company's Registration Statement stated the following about Defendant  
8 Stoutner:

9 Director. Mr. Stoutner has been a member of the Switchback Board  
10 since December 2020. Since January 2021, Mr. Stoutner has served as  
11 a member of the board of directors of Switchback III. Mr. Stoutner  
12 served as a member of the board of directors for Switchback I from May  
13 2019 until the closing of its business combination with ChargePoint.  
14 Mr. Stoutner joined NGP in 2011 and currently serves as Partner and  
15 as a director of certain private NGP portfolio companies. Prior to  
16 joining NGP, Mr. Stoutner was an investment banking analyst with  
17 Madison Williams and Company's Energy Investment Banking Group  
18 in Houston, where he focused on financing and merger and acquisition  
19 transactions in the oil and gas industry. Mr. Stoutner received a B.B.A.  
20 and M.P.A. in Accounting, summa cum laude, in 2010 from The  
21 University of Texas at Austin. He received an M.B.A. in 2016 from  
22 Stanford University.

19 **Defendant Deutch**

20 57. Defendant Deutch served as a member of the Switchback board from  
21 December 2020 until November 4, 2021.

22 58. The Company's Registration Statement stated the following about Defendant  
23 Deutch:

24 Director. Mr. Deutch has been a member of the Switchback Board since  
25 December 2020. Since January 2021, Mr. Deutch has served as a  
26 member of the board of directors of Switchback III. Mr. Deutch  
27 currently serves as a Partner of NGP and serves as Chief Executive  
28 Officer of NGP ETP III, a portfolio company of NGP XII that invests  
in companies with products, services, or technologies in the areas of  
renewable energy, power, energy storage, environmental, energy

1 efficiency and transportation. Mr. Deutch founded NGP ETP in 2005  
 2 and has been investing in the energy technology sector since 1997.  
 3 Mr. Deutch managed NGP ETP and NGP Energy Technology Partners  
 4 II, two private equity funds affiliated with NGP, which invested in  
 5 companies that provide products and services to the oil and gas, power,  
 6 environmental, energy efficiency and alternative energy sectors. From  
 7 2015 to 2018, Mr. Deutch was Partner, COO, and President of Social  
 8 Capital, a \$1.8 billion Silicon Valley-based investment firm, where he  
 9 helped launch SC Public Equity Partners and Social  
 10 Capital Hedosophia Holdings Corp. (NYSE:IPOA). From 1997 to  
 11 2004, Mr. Deutch was Managing Director at Perseus, L.L.C., where he  
 12 led or co-led the firm's energy investing activities and was a member  
 13 of the firm's Executive Committee. At Perseus, Mr. Deutch helped  
 14 launch Perseus CDO I Limited, Perseus Acquisition-Recapitalization  
 15 Fund and Perseus-Soros Biopharmaceutical Fund, L.P. From 1986 to  
 16 1988, Mr. Deutch was a financial analyst in the Mergers & Acquisition  
 17 Department of Morgan Stanley & Co., Inc. Mr. Deutch is a board  
 18 member of Form Energy Inc., Voltus Inc., Community Energy Inc. and  
 19 TPI Composites Inc. (NASDAQ:TPIC) and is a former board member  
 20 of, among other companies, American Wind Capital, Beacon Power,  
 21 Evergreen Solar, Renewable Energy Group (NASDAQ:REGI)  
 22 and SatCon Technologies. Mr. Deutch is a member of the External  
 23 Advisory Board of the MIT Future of Storage Study, the Board of  
 24 Governors of the Folger Shakespeare Library and the Board of Trustees  
 25 of the Menlo School. He previously served on the Boards of the  
 26 International Center for Women, the Washington Performing Arts  
 27 Society and Capital for Children. Mr. Deutch holds a J.D. with  
 28 distinction from Stanford Law School and a B.A. in Economics from  
 Amherst College, where he was elected a member of Phi Beta Kappa.

### **Defendant Kubis**

59. Defendant Kubis served as a member of the Switchback board from January  
 2021 until November 4, 2021.

60. The Company's Registration Statement stated the following about Defendant  
 Kubis:

Independent Director. Mr. Kubis has been a member of the Switchback  
 Board since January 2021. Mr. Kubis served as a member of the board  
 of directors of Switchback I from July 2020 until the closing of its  
 business combination with ChargePoint. Mr. Kubis has served as a

1 director of Gridtential Energy, Inc., an inventor and developer of  
 2 battery technology (“Gridtential”), since October 2015. Mr. Kubis has  
 3 served as the Chairman of Gridtential since November 2016. From June  
 4 2013 to October 2015, Mr. Kubis served as President, and from June  
 5 2013 to January 2020, Mr. Kubis served as a member of the Board of  
 6 Directors of ECO-BAT Technologies Limited, which collects, recycles  
 7 and produces products for the battery, mining and other industries.  
 8 From March 2002 through January 2013, Mr. Kubis served as  
 9 President—Europe, Middle East and Africa of EnerSys, a  
 10 manufacturer, marketer and distributor of industrial batteries. From  
 11 October 1998 to March 2002, Mr. Kubis was Vice President, General  
 12 Manager, for the Energy Storage Group of Invensys plc. He has also  
 13 worked in senior leadership positions with Johnson Controls and Exide  
 14 in the automotive battery industry. Mr. Kubis received his M.B.A.  
 15 degree from The Wharton School of the University of Pennsylvania and  
 16 a B.S. degree in Accounting from the University of Illinois.

### 17 **Defendant Owodunni**

18 61. Defendant Owodunni served as a member of the Switchback board from  
 19 January 2021 until November 4, 2021.

20 62. The Company’s Registration Statement stated the following about Defendant  
 21 Owodunni:

22 Independent Director. Ms. Owodunni has been a member of the  
 23 Switchback Board since January 2021. Since 2009, Ms. Owodunni has  
 24 served as the president of Mountaintop Consulting LLC, a business  
 25 strategy and branding company that advises leading corporations and  
 26 financial services, law, and private equity firms. Prior to establishing  
 27 Mountaintop, Ms. Owodunni was a vice president at Goldman,  
 28 Sachs & Co., where she made private equity investments in high  
 growth businesses and served on the boards of several portfolio  
 companies. Ms. Owodunni began her Goldman career as an investment  
 banker in the Mergers & Strategic Advisory Group, advising energy,  
 retail and industrial companies on M&A and corporate finance  
 transactions. Ms. Owodunni graduated with honors from Yale  
 University and received a J.D. from Yale Law School. Since 2019,  
 Ms. Owodunni has served as director on the board of directors of  
 Cadence Bancorporation (NYSE:CADE). Ms. Owodunni also  
 currently serves as a board member of the Houston Parks Board and the  
 Episcopal Health Foundation.



### **FIDUCIARY DUTIES OF THE INDIVIDUAL DEFENDANTS**

63. By reason of their positions as controlling shareholder, officers, directors, and/or fiduciaries of Bird and because of their ability to control the business and corporate affairs of Bird, the Individual Defendants owed Bird and its shareholders fiduciary obligations of trust, loyalty, good faith, and due care, and were and are required to use their utmost ability to control and manage Bird in a fair, just, honest, and equitable manner. The Individual Defendants were and are required to act in furtherance of the best interests of Bird and its shareholders so as to benefit all shareholders equally.

64. Each controlling shareholder, director, and/or officer of the Company owes to Bird and its shareholders the fiduciary duty to exercise good faith and diligence in the administration of the Company and in the use and preservation of its property and assets and the highest obligations of fair dealing.

65. The Individual Defendants, because of their positions of control and authority as controlling shareholder, directors, and/or officers of Bird, were able to and did, directly and/or indirectly, exercise control over the wrongful acts complained of herein.

66. To discharge their duties, the controlling shareholder, officers, and/or directors of Bird were required to exercise reasonable and prudent supervision over the management, policies, controls, and operations of the Company.

67. Each Individual Defendant, by virtue of his or her position as a controlling shareholder, director, and/or officer, owed to the Company and to its shareholders the highest fiduciary duties of loyalty, good faith, and the exercise of due care and diligence in the management and administration of the affairs of the Company, as well as in the use and preservation of its property and assets. The conduct of the Individual Defendants complained of herein involves a knowing and culpable violation of their obligations as controlling shareholder, directors, and/or officers of Bird, the absence of good faith on their part, or a reckless disregard for their duties to the Company and its shareholders that the Individual Defendants were aware or should have been aware posed a risk of serious injury



1 to the Company. The conduct of the Individual Defendants who were also controlling  
2 shareholder, officers, and/or directors of the Company has been ratified by the remaining  
3 Individual Defendants who collectively comprised Bird's Board at all relevant times.

4 68. As controlling shareholder, senior executive officers, and/or directors of a  
5 publicly-traded company whose common stock was registered with the SEC pursuant to  
6 the Exchange Act and traded on the NYSE, the Individual Defendants had a duty to prevent  
7 and not to effect the dissemination of inaccurate and untruthful information with respect to  
8 the Company's financial condition, performance, growth, operations, financial statements,  
9 business, products, management, earnings, internal controls, and present and future  
10 business prospects, including the dissemination of false information regarding the  
11 Company's business, prospects, and operations, and had a duty to cause the Company to  
12 disclose in its regulatory filings with the SEC all those facts described in this Complaint  
13 that it failed to disclose, so that the market price of the Company's common stock would  
14 be based upon truthful and accurate information.

15 69. To discharge their duties, the controlling shareholder, officers, and/or  
16 directors of Bird were required to exercise reasonable and prudent supervision over the  
17 management, policies, practices, and internal controls of the Company. By virtue of such  
18 duties, the controlling shareholder, officers, and/or directors of Bird were required to,  
19 among other things:

20 (a) ensure that the Company was operated in a diligent, honest, and prudent  
21 manner in accordance with the laws and regulations of Delaware, Florida, and the United  
22 States, and pursuant to Bird's own Code of Business Conduct and Ethics (the "Code of  
23 Conduct");

24 (b) conduct the affairs of the Company in an efficient, business-like manner  
25 so as to make it possible to provide the highest quality performance of its business, to avoid  
26 wasting the Company's assets, and to maximize the value of the Company's stock;  
27  
28

1 (c) remain informed as to how Bird conducted its operations, and, upon  
2 receipt of notice or information of imprudent or unsound conditions or practices, to make  
3 reasonable inquiry in connection therewith, and to take steps to correct such conditions or  
4 practices;

5 (d) establish and maintain systematic and accurate records and reports of  
6 the business and internal affairs of Bird and procedures for the reporting of the business  
7 and internal affairs to the Board and to periodically investigate, or cause independent  
8 investigation to be made of, said reports and records;

9 (e) maintain and implement an adequate and functioning system of internal  
10 legal, financial, and management controls, such that Bird's operations would comply with  
11 all applicable laws and Bird's financial statements and regulatory filings filed with the SEC  
12 and disseminated to the public and the Company's shareholders would be accurate;

13 (f) exercise reasonable control and supervision over the public statements  
14 made by the Company's officers and employees and any other reports or information that  
15 the Company was required by law to disseminate;

16 (g) refrain from unduly benefiting themselves and other Company insiders  
17 at the expense of the Company; and

18 (h) examine and evaluate any reports of examinations, audits, or other  
19 financial information concerning the financial affairs of the Company and to make full and  
20 accurate disclosure of all material facts concerning, *inter alia*, each of the subjects and  
21 duties set forth above.

22 70. Each of the Individual Defendants further owed to Bird and the shareholders  
23 the duty of loyalty requiring that each favor Bird's interest and that of its shareholders over  
24 their own while conducting the affairs of the Company and refrain from using their  
25 position, influence or knowledge of the affairs of the Company to gain personal advantage.

26 71. At all times relevant hereto, the Individual Defendants were the agents of each  
27 other and of Bird and were at all times acting within the course and scope of such agency.  
28

1           72. Because of their advisory, executive, managerial, directorial, and controlling  
2 shareholder positions with Bird, each of the Individual Defendants had access to adverse,  
3 non-public information about the Company.

4           73. The Individual Defendants, because of their positions of control and authority,  
5 were able to and did, directly or indirectly, exercise control over the wrongful acts  
6 complained of herein, as well as the contents of the various public statements issued by  
7 Bird.

8           **CONSPIRACY, AIDING AND ABETTING, AND CONCERTED ACTION**

9           74. In committing the wrongful acts alleged herein, the Individual Defendants  
10 have pursued, or joined in the pursuit of, a common course of conduct, and have acted in  
11 concert with and conspired with one another in furtherance of their wrongdoing. The  
12 Individual Defendants caused the Company to conceal the true facts as alleged herein. The  
13 Individual Defendants further aided and abetted and/or assisted each other in breaching  
14 their respective duties.

15           75. The purpose and effect of the conspiracy, common enterprise, and/or common  
16 course of conduct was, among other things, to: (i) facilitate and disguise the Individual  
17 Defendants' violations of law, including breaches of fiduciary duty, unjust enrichment,  
18 waste of corporate assets, gross mismanagement, abuse of control, violations of the  
19 Exchange Act, and the claims alleged in the Securities Class Action; (ii) conceal adverse  
20 information concerning the Company's operations, financial condition, legal compliance,  
21 future business prospects and internal controls; and (iii) to artificially inflate the  
22 Company's stock price.

23           76. The Individual Defendants accomplished their conspiracy, common  
24 enterprise, and/or common course of conduct by causing the Company purposefully or  
25 recklessly to conceal material facts, fail to correct such misrepresentations, and violate  
26 applicable laws. In furtherance of this plan, conspiracy, and course of conduct, the  
27 Individual Defendants collectively and individually took the actions set forth herein.  
28

1 Because the actions described herein occurred under the authority of the Board, each of the  
2 Individual Defendants who is a director of Bird was a direct, necessary, and substantial  
3 participant in the conspiracy, common enterprise, and/or common course of conduct  
4 complained of herein.

5 77. Each of the Individual Defendants aided and abetted and rendered substantial  
6 assistance in the wrongs complained of herein. In taking such actions to substantially assist  
7 the commission of the wrongdoing complained of herein, each of the Individual Defendants  
8 acted with actual or constructive knowledge of the primary wrongdoing, either took direct  
9 part in, or substantially assisted in the accomplishment of that wrongdoing, and was or  
10 should have been aware of his or her overall contribution to and furtherance of the  
11 wrongdoing.

12 78. At all times relevant hereto, each of the Individual Defendants was the agent  
13 of each of the other Individual Defendants and of Bird, and was at all times acting within  
14 the course and scope of such agency.

15 **BIRD'S CODE OF CONDUCT AND AUDIT COMMITTEE CHARTER**

16 79. Bird's Code of Conduct provides that "[a]ll directors and employees are  
17 evaluated at the highest standard of business ethics and are expected to conduct themselves  
18 according to this Code of Business Conduct and Ethics (the "Code"). We expect our  
19 leadership team and People Managers, in particular, to lead by example and always  
20 demonstrate integrity."

21 80. In a section titled, "Competition and Fair Dealing," the Code of Conduct states  
22 the following, in relevant part:

23 All employees should endeavor to deal fairly with collaborators, licensors,  
24 suppliers and customers, including fellow employees, vendors, Fleet Manager  
25 partners, riders and cities, as well as competitors, and all others in the Bird  
26 global community. Our employees should not take unfair advantage of anyone  
27 through manipulation, concealment, abuse of privileged information,  
28 misrepresentation of material facts or any other unfair-dealing practice. Employees should maintain and protect any intellectual property licensed from licensors with the same care as they employ with regard to Company-

1 developed intellectual property. Employees should also handle the non-public  
2 information of our collaborators, licensors, suppliers and customers  
3 responsibly and in accordance with our agreements with them, including  
4 information regarding their technology and product pipelines.

5 81. In a section titled, “Company Records,” the Code of Conduct states the  
6 following, in relevant part:

7 Accurate and reliable records are crucial to Bird’s business. Our records  
8 are the basis of our earnings statements, financial reports, regulatory  
9 submissions and many other aspects of our business and guide our  
10 business decision-making and strategic planning. Company records  
11 include financial records, personnel records, records relating to our  
12 technology and product development, customer and partner  
13 collaborations, manufacturing and regulatory submissions, agreements  
14 with our vendors and other external parties, and includes materials used  
15 or created in connection with city Requests for Proposal (RFPs) and  
16 permit applications, and all other records maintained in the ordinary  
17 course of our business.

18 All Company records must be complete, accurate and reliable in all  
19 material respects. Each employee and director must follow Bird’s  
20 applicable document retention policies with respect to Company  
21 records within their control. Please contact your manager, the People  
22 Team, or the Legal Team to obtain copies of any applicable policies or  
23 with any questions concerning any such policies.

24 82. In a section titled, “Accuracy of Financial Reports and Disclosures,” the Code  
25 of Conduct states the following:

26 As a public company, Bird is subject to various securities laws,  
27 regulations, and reporting obligations. Both federal law and our policies  
28 require the disclosure of accurate and complete information regarding  
Bird’s business, financial condition, and results of operations.  
Inaccurate, incomplete, or untimely reporting will not be tolerated and  
can severely damage Bird and result in legal liability.

Bird’s principal financial officers and other employees working in the  
finance department or those working with data or systems affecting  
financial reporting have a special responsibility to ensure that all of our  
financial disclosures are full, fair, accurate, timely and understandable.  
These employees must understand and strictly comply with generally

1 accepted accounting principles and all standards, laws and regulations  
2 for accounting and financial reporting of transactions, estimates and  
3 forecasts.

4 83. In a section titled, "Compliance with Laws and Regulations," the Code of  
5 Conduct states the following, in relevant part:

6 Each employee and director has an obligation to comply with all laws,  
7 rules and regulations applicable to Bird's operations. These include,  
8 without limitation, laws covering bribery and kickbacks, copyrights,  
9 trademarks and trade secrets, information privacy, insider trading,  
10 illegal political contributions, antitrust prohibitions, foreign corrupt  
11 practices, offering or receiving gratuities, environmental hazards,  
12 employment discrimination or harassment, occupational health and  
13 safety, false or misleading financial information or misuse of corporate  
14 assets. You are expected to understand and comply with all laws, rules  
15 and regulations that apply to your job or position within the Company.

16 \* \* \*

17 Consistent with Bird's Insider Trading Compliance Policy, the  
18 Company's employees and directors are prohibited from trading in  
19 Bird's stock or other securities while in possession of material non-  
20 public information about Bird. In addition, Bird employees and  
21 directors are prohibited from recommending, "tipping" or suggesting  
22 that anyone else buy or sell Bird's stock or other securities on the basis  
23 of material non-public information. Employees and directors who  
24 obtain material non-public information about another company in the  
25 course of their duties are prohibited from trading in the stock or  
26 securities of the other company while in possession of such information  
27 or "tipping" others to trade on the basis of such information. Violation  
28 of insider trading laws can result in severe fines and criminal penalties,  
as well as disciplinary action by Bird, up to and including, for an  
employee, termination of employment; or, for a director, a request that  
such director resign from the Board of Directors. You are required to  
read carefully and observe our Insider Trading Compliance Policy, as  
amended from time to time.

84. In a section titled, "Public Communications Generally," the Code of Conduct  
states the following:

Bird highly values its credibility and reputation in the community. What is written or said about Bird in the news media and investment community directly impacts our reputation, positively or negatively. Our policy is to provide timely, accurate and complete information in response to public requests (from media, analysts, etc.), consistent with our obligations to maintain the confidentiality of competitive and proprietary information and to prevent selective disclosure of market-sensitive financial data. Bird has adopted a separate Policy Statement – Guidelines for Corporate Disclosure to maintain the Company’s credibility and reputation in the community, to maintain the confidentiality of competitive and proprietary information and to prevent selective disclosure of market-sensitive financial data.

85. The Company’s Audit Committee Charter also entrusts the Individual Defendants on the Audit Committee with additional responsibilities. The Audit Committee Charter states that the purpose of the Audit Committee is to, in relevant part:

assist the Board in its oversight of: (i) the integrity of the Company’s financial statements; (ii) the Company’s compliance with legal and regulatory requirements, (iii) the independent auditor’s qualifications and independence; and (iv) the performance of the Company’s independent auditor; and (v) the design and implementation of the Company’s internal audit function, and the performance of the internal audit function after it has been established.

The Committee’s responsibilities are limited to oversight. The Company’s management is responsible for establishing and maintaining accounting policies and procedures in accordance with generally accepted accounting principles (“GAAP”) and other applicable reporting and disclosure standards and for preparing the Company’s financial statements. The Company’s independent auditors are responsible for auditing and reviewing those financial statements.

86. The Audit Committee Charter also delates the Audit Committee, *inter alia*, with the following responsibilities, in relevant part:

*Form 10-K Review.* The Committee must review and discuss the annual audited financial statements with management and the independent auditor, including the Company’s disclosures under “Management’s Discussion and Analysis of Financial Condition and Results of Operations.



\* \* \*

*Form 10-Q Review.* The Committee must review and discuss the quarterly financial statements with management and the independent auditor, including the Company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations."

\* \* \*

*Review of Earnings Releases.* The Committee must discuss the Company's earnings press releases, as well as financial information and earnings guidance provided to analysts and rating agencies.

*Risk Assessment and Risk Management.* The Committee must review the Company's policies with respect to risk assessment and risk management, including with respect to financial, information security and cybersecurity-related risks.

87. In violation of the Code of Conduct and the Company's corporate governance documents, the Individual Defendants conducted little, if any, oversight of the Company's engagement in the Individual Defendants' scheme to issue materially false and misleading statements to the public and to facilitate and disguise the Individual Defendants' violations of law, including breaches of fiduciary duty, gross mismanagement, abuse of control, waste of corporate assets, unjust enrichment, violations of the Exchange Act, and the aiding and abetting thereof. Moreover, one of the Individual Defendants violated the Code of Conduct by engaging in insider trading. Also in violation of the Code of Conduct, the Individual Defendants failed to maintain the accuracy of Company records including financial records, disclose accurate and complete information regarding Bird's business, financial condition, and results of operations, and comply with laws and regulations. In violation of the Audit Committee Charter, the Individual Defendants on the Audit Committee failed to fulfill their responsibilities in overseeing, *inter alia*, the integrity of the Company's financial statements and the Company's compliance with legal and regulatory

1 requirements, including reporting and disclosure standards and for preparing the  
2 Company's financial statements.

### 3 **INDIVIDUAL DEFENDANTS' MISCONDUCT**

#### 4 **Background**

5 88. The Company is focused on disrupting traditional models of transportation by  
6 making lightweight electric vehicles such as scooters and bikes readily available to rent or  
7 own to cities across the world.

8 89. The Company's core Sharing business generates the lion share of the  
9 Company's total revenue. For the years ended December 31, 2021 and 2020, 91% and  
10 85%, respectively, of Bird's total revenue was generated from Bird's Sharing business.

11 90. Throughout the Relevant Period, the Individual Defendants caused the  
12 Company to improperly record revenue on certain trips completed by customers of the  
13 Company's Sharing business. Accordingly, several of the Company's annual and quarterly  
14 financial reports filed with the SEC on Form 10-Ks and 10-Qs overstated the Company's  
15 Sharing revenue for the relevant fiscal quarters and year during the Relevant Period and  
16 also failed to disclose that the Company's internal controls were ineffective as they related  
17 to the recognition of Sharing revenue.

18 91. On November 14, 2022, the Company issued a press release announcing that  
19 the Company's financial statements included in the Company's Original Filings should no  
20 longer be relied upon. The press release also stated that any previously furnished or filed  
21 reports, related earnings releases, investor presentations or similar communications of the  
22 Company describing its financial results contained in the Original Filings should no longer  
23 be relied upon. The press release further stated that the Company was in the process of  
24 designing and implementing controls to remediate the deficiencies.

25 92. On this news, the Company's share price dropped \$0.069 (or 15.9%) from a  
26 close of \$0.433 per share on Friday, November 11, 2022 to a close of \$0.364 per share on  
27 Monday, November 14, 2022.  
28

## **False and Misleading Statements**

### ***May 14, 2021 Registration Statement***

93. On May 14, 2021, the Company filed the Registration Statement, signed by Defendants VanderZanden and Ling, with the SEC.

94. The Registration Statement reported that the Company earned \$79,941,000 in Sharing revenue for the year ended December 31, 2020.

### ***October 7, 2021 Prospectus***

95. On October 7, 2021, the Company filed a prospectus, signed by Defendants VanderZanden and Mutrie, on Form 424(b)(3) with the SEC (the “Prospectus”). Defendants Mutrie, McNeill, Carter, Gieselman, Stoutner, Deutch, Kubis, and Owodunni solicited the Prospectus, which contained material misstatements and omissions.

96. The Prospectus called for Company shareholders to vote to, *inter alia*: (1) approve the Business Combination and adopt the Business Combination Agreement, dated as of May 11, 2021; and (2) approve and adopt the Bird Global, Inc. 2021 Incentive Award Plan (the “2021 Plan”).

97. The Prospectus also reported that the Company earned \$79,941,000 in Sharing revenue for the year ended December 31, 2020.

98. The above statements in the Prospectus were false and misleading because they failed to disclose, *inter alia*, that: (1) the Company was inaccurately recording Sharing revenue on certain trips taken by customers of the Company’s Sharing business; (2) as a result, the Company was overstating its Sharing revenue to the investing public; (3) the Company’s internal controls were ineffective and inadequate in terms of accurately recording and reporting Sharing revenue; (4) accordingly, the Company was in need of restating the Sharing revenue it reported as having earned in its SEC filings throughout the Relevant Period; and (5) the Company failed to maintain internal controls. As a result of the foregoing, the Company’s public statements were materially false and misleading at all relevant times.

1           99. As a result of the material misstatements and omissions contained in the  
2 Prospectus, Company shareholders voted, *inter alia*, to: (1) approve the Business  
3 Combination and adopt the Business Combination Agreement; and (2) approve and adopt  
4 the 2021 Plan, allowing certain of the Individual Defendants to be greatly unjustly  
5 compensated.

6           ***November 15, 2021 Quarterly Report***

7           100. On November 15, 2021, the Company filed a quarterly report on Form 10-Q  
8 with the SEC for the quarter ended September 30, 2021 (the “3Q21 10-Q”). The 3Q21 10-  
9 Q was signed by Defendants VanderZanden and Ling, and contained certifications  
10 pursuant to Rule 13a-14(a) and 15d-14(a) under the Exchange Act and the Sarbanes-Oxley  
11 Act of 2002 (“SOX”) signed by Defendants VanderZanden and Ling attesting to the  
12 accuracy of the financial statements contained therein, the disclosure of any material  
13 changes to the Company’s internal controls, and the disclosure of any fraud committed by  
14 the Company, its officers, or its directors.

15           101. The 3Q21 10-Q reported that the Company earned \$64,027,000 in Sharing  
16 revenue for the quarter ended September 30, 2021.

17           ***March 15, 2022 Annual Report***

18           102. On March 15, 2022, the Company filed an annual report on Form 10-K with  
19 the SEC for the year ended December 31, 2021 (the “2021 10-K”). The 2021 10-K was  
20 signed by each of the Individual Defendants and contained SOX certifications signed by  
21 Defendants VanderZanden and Ling attesting to the accuracy of the 2021 10-K, the  
22 disclosure of any material changes to the Company’s internal controls, and the disclosure  
23 of any fraud committed by the Company, its officers, or its directors.

24           103. The 2021 10-K reported that the Company earned \$187,327,000 in Sharing  
25 revenue for the year ended December 31, 2021.

26           ***April 26, 2022 Proxy Statement***

1           104. On April 26, 2022, the Company filed the 2022 Proxy Statement. Defendants  
2 VanderZanden, Botha, Friedland, Kan, Komin, Mutrie, Russell, and Sacks solicited the  
3 2022 Proxy Statement, which contained material misstatements and omissions.

4           105. The 2022 Proxy Statement called for Company shareholders to vote to, *inter*  
5 *alia*: (1) elect Defendants Botha and Sacks to the Board; and (2) ratify the appointment of  
6 Ernst & Young LLP as the Company's independent registered public accounting firm for  
7 the fiscal year ended December 31, 2022.

8           106. Under the heading "Board Leadership Structure and Role in Risk Oversight,"  
9 the 2022 Proxy Statement stated the following, in relevant part:

10           Risk assessment and oversight are an integral part of our governance and  
11 management processes. Our Board of Directors encourages management to  
12 promote a culture that incorporates risk management into our corporate  
13 strategy and day-to-day business operations. Management discusses strategic  
14 and operational risks at regular management meetings and conducts specific  
15 strategic planning and review sessions during the year that include a focused  
16 discussion and analysis of the risks facing us. Throughout the year, senior  
17 management reviews these risks with the Board of Directors at regular Board  
18 meetings as part of management presentations that focus on particular  
19 business functions, operations or strategies, and presents the steps taken by  
20 management to mitigate or eliminate such risks. Our Board of Directors does  
21 not have a standing risk management committee, but rather administers this  
22 oversight function directly through the Board of Directors as a whole, as well  
23 as through various standing committees of the Board of Directors that address  
24 risks inherent in their respective areas of oversight. As provided in the Audit  
25 Committee Charter, the Audit Committee is responsible for discussing the  
26 Company's policies with respect to risk assessment and risk management,  
27 including guidelines and policies to govern the process by which the  
28 Company's exposure to risk is handled. In accordance with those policies, the  
Board and the Board committees have an active role in overseeing  
management of the Company's risks. The Board regularly reviews  
information regarding the Company's credit, liquidity and operations, as well  
as the risks associated with each. The Company's Compensation Committee  
is responsible for overseeing the management of risks relating to the  
Company's executive compensation plans and arrangements. The Company's  
Audit Committee oversees management of financial reporting and related  
risks. The Nominating and Corporate Governance Committee manages risks

1 associated with the independence of the Board and potential conflicts of  
2 interest. While each committee is responsible for evaluating certain risks and  
3 overseeing the management of such risks, the entire Board is regularly  
4 informed through committee reports about such risks. The Board does not  
5 believe that its role in the oversight of our risks affects the Board's leadership  
6 structure.

7 107. The 2022 Proxy Statement also detailed the responsibilities of the Audit  
8 Committee, which at that time consisted of Defendants Komin, Botha, and Mutrie. These  
9 responsibilities included the following:

- 10 • overseeing the financial reporting process and discussing with  
11 management and our independent registered public accounting firm the  
12 interim and annual financial statements that we file with the SEC;
- 13 • reviewing and monitoring our accounting principles, accounting  
14 policies, financial and accounting controls and compliance with legal  
15 and regulatory requirements;

16 108. With respect to the Company's Code of Conduct, the 2022 Proxy Statement  
17 stated:

18 We have a Code of Business Conduct and Ethics that applies to all of our  
19 directors, officers and employees, including our principal executive officer,  
20 principal financial officer, principal accounting officer or controller or  
21 persons performing similar functions. The Code of Business Conduct and  
22 Ethics is available on our Investor Relations website, *ir.bird.co*. We intend to  
23 make any legally required disclosures regarding amendments to, or waivers  
24 of, provisions of our Code of Business Conduct and Ethics on our website  
25 rather than by filing a Current Report on Form 8-K.

26 109. The above statements in the 2022 Proxy Statement were false and misleading  
27 because they failed to disclose that: (1) contrary to the 2022 Proxy Statement's description  
28 of the Board's risk oversight function, the Board failed in the administration of its risk  
oversight function, resulting in the Individual Defendants' misconduct and breach of their  
fiduciary duties; (2) contrary to the 2022 Proxy Statement's description of the Audit  
Committee's responsibilities, the Audit Committee was not adequately exercising these  
functions, was causing or permitting the Company to issue false and misleading statements,  
and the Individual Defendants on the Board and the Audit Committee at that time were



1 breaching their fiduciary duties; and (3) although the Company claimed the Code of  
2 Conduct applied to all officers and directors and that it would disclose any waivers of the  
3 policy, the Individual Defendants violated the Code of Conduct either without waivers or  
4 without such waivers being disclosed.

5 110. The above statements in the 2022 Proxy Statement were false and misleading  
6 because they also failed to disclose, *inter alia*, that: (1) the Company was inaccurately  
7 recording Sharing revenue on certain trips taken by customers of the Company's Sharing  
8 business; (2) as a result, the Company was overstating its Sharing revenue to the investing  
9 public; (3) the Company's internal controls were ineffective and inadequate in terms of  
10 accurately recording and reporting Sharing revenue; (4) accordingly, the Company was in  
11 need of restating the Sharing revenue it reported as having earned in its SEC filings  
12 throughout the Relevant Period; and (5) the Company failed to maintain internal controls.  
13 As a result of the foregoing, the Company's public statements were materially false and  
14 misleading at all relevant times.

15 111. As a result of the material misstatements and omissions contained in the 2022  
16 Proxy Statement, Company shareholders voted, *inter alia*, to: (1) elect Defendants Botha  
17 and Sacks to the Board, allowing them to continue breaching their fiduciary duties to the  
18 Company; and (2) ratify the appointment of Ernst & Young LLP as the Company's  
19 independent registered public accounting firm for the fiscal year ended December 31, 2022.

20 ***May 16, 2022 Quarterly Report***

21 112. On May 16, 2022, the Company filed a quarterly report on Form 10-Q with  
22 the SEC for the quarter ended March 31, 2022 (the "1Q22 10-Q"). The 1Q22 10-Q was  
23 signed by Defendants VanderZanden and Ling and contained SOX certifications signed by  
24 them attesting to the accuracy of the 1Q22 10-Q, the disclosure of any material changes to  
25 the Company's internal controls, and the disclosure of any fraud committed by the  
26 Company, its officers, or its directors.



1           113. The 1Q22 10-Q reported that the Company earned \$33,577,000 in Sharing  
2 revenue for the quarter ended March 31, 2022.

3           ***August 15, 2022 Quarterly Report***

4           114. On August 15, 2022, the Company filed a quarterly report on Form 10-Q with  
5 the SEC for the quarter ended June 30, 2022 (the “2Q22 10-Q”). The 2Q22 10-Q was  
6 signed by Defendants VanderZanden and Ling and contained SOX certifications signed by  
7 them attesting to the accuracy of the 2Q22 10-Q, the disclosure of any material changes to  
8 the Company’s internal controls, and the disclosure of any fraud committed by the  
9 Company, its officers, or its directors.

10           115. The 2Q22 10-Q reported that the Company earned \$72,395,000 in Sharing  
11 revenue for the quarter ended June 30, 2022.

12           116. The statements referenced in ¶¶93-94, ¶97, ¶¶100-103, and ¶¶112-115 herein  
13 were materially false and misleading and failed to disclose material facts necessary to make  
14 the statements made not false and misleading. Specifically, the Individual Defendants  
15 failed to disclose, *inter alia*, that: (1) the Company was inaccurately recording Sharing  
16 revenue on certain trips taken by customers of the Company’s Sharing business; (2) as a  
17 result, the Company was overstating its Sharing revenue to the investing public; (3) the  
18 Company’s internal controls were ineffective and inadequate in terms of accurately  
19 recording and reporting Sharing revenue; (4) accordingly, the Company was in need of  
20 restating the Sharing revenue it reported as having earned in its SEC filings throughout the  
21 Relevant Period; and (5) the Company failed to maintain internal controls. As a result of  
22 the foregoing, the Company’s public statements were materially false and misleading at all  
23 relevant times.

24           **The Truth Emerges**

25           ***November 14, 2022 Current Report***

26           117. On November 14, 2022, the Company filed a current report on Form 8-K with  
27 the SEC announcing that the Audit Committee, after discussing with management, had  
28

1 determined that the Company's consolidated financial statements included in various SEC  
2 filings throughout the Relevant Period were no longer able to be relied upon. The current  
3 report also disclosed that any other public statements made by the Company regarding its  
4 financial results as reported in its SEC filings throughout the Relevant Period similarly  
5 were no longer able to be relied upon. Specifically, the current report disclosed:

6 On November 11, 2022, the Audit Committee of the Board of Directors (the  
7 "Audit Committee") of Bird Global, Inc. (the "Company"), after discussion  
8 with management, determined that (i) the Company's audited consolidated  
9 financial statements as of December 31, 2021 and 2020, and for the years then  
10 ended, and quarterly periods within those years, included in the Annual Report  
11 on Form 10-K filed with the Securities and Exchange Commission (the  
12 "SEC") on March 15, 2022, (ii) its condensed consolidated financial  
13 statements as of March 31, 2022, and for the three months then ended,  
14 included in the Quarterly Report on Form 10-Q filed with the SEC on May  
15 16, 2022 and (iii) its condensed consolidated financial statements as of June  
16 30, 2022, and for the three and six months then ended, included in the  
17 Quarterly Report on Form 10-Q filed with the SEC on August 15, 2022  
18 (collectively, the "Original Filings", and each such quarterly or annual period  
covered therein, an "impacted period"), ***should no longer be relied upon. Similarly, any previously furnished or filed reports, related earnings releases, investor presentations or similar communications of the Company describing the Company's financial results contained in the Original Filings should no longer be relied upon.***

19 The determination ***results from an error identified in connection with the***  
20 ***preparation of the Company's condensed consolidated financial statements***  
21 ***as of September 30, 2022, and the three and nine months then ended, related***  
22 ***to its business system configuration that impacted the recognition of***  
23 ***revenue on certain trips completed by customers of its Sharing business***  
24 ***("Rides") for which collectability was not probable.*** Specifically, for certain  
25 customers with insufficient preloaded "wallet" balances, the Company's  
26 business systems recorded revenue for uncollected balances following the  
27 completion of certain Rides ***that should not have been recorded.*** The  
28 Company believes ***the error resulted in an overstatement of Sharing revenue***  
***in the consolidated statements of operations for the impacted periods and***  
***an understatement of deferred revenue in the consolidated balance sheets***  
***as of the end of each impacted period.***

1 The Company intends to amend the Original Filings as soon as practicable. In  
2 connection with the restatement, management has re-evaluated the  
3 effectiveness of the Company's disclosure controls and procedures.  
4 ***Management has concluded that the Company's disclosure controls and***  
5 ***procedures are not effective at a reasonable assurance level, due to a***  
6 ***material weakness in its internal control over financial reporting related to***  
7 ***the ineffective design of controls around its business systems that resulted***  
8 ***in the recording of revenue for uncollected balances following the***  
9 ***completion of certain Rides that should not have been recorded.*** The  
10 Company is in the process of designing and implementing controls to  
11 remediate these deficiencies.

12 (Emphasis added).

13 118. On this news, the Company's share price dropped \$0.069 (or 15.9%) from a  
14 close of \$0.433 per share on Friday, November 11, 2022 to a close of \$0.364 per share on  
15 Monday, November 14, 2022.

### 16 **DAMAGES TO BIRD**

17 119. As a direct and proximate result of the Individual Defendants' conduct, Bird  
18 will lose and expend many millions of dollars.

19 120. Such expenditures include, but are not limited to, the costs, legal fees  
20 associated with the Securities Class Action filed against the Company and certain of its  
21 current and former officers and directors, any governmental investigations, any internal  
22 investigations, and amounts paid to outside lawyers, accountants, and investigators in  
23 connection thereto.

24 121. Such losses include, but are not limited to, handsome compensation and  
25 benefits paid to the Individual Defendants who breached their fiduciary duties to the  
26 Company.

27 122. As a direct and proximate result of the Individual Defendants' conduct, Bird  
28 has also suffered and will continue to suffer a loss of reputation and goodwill, and a "liar's  
discount" that will plague the Company's stock in the future due to the Company's and  
their misrepresentations and the Individual Defendants' breaches of fiduciary duties and  
unjust enrichment and other violations of law.

### **DERIVATIVE ALLEGATIONS**

123. Plaintiff brings this action derivatively and for the benefit of Bird to redress injuries suffered, and to be suffered, as a result of the Individual Defendants' breaches of their fiduciary duties as controlling shareholder, directors, and/or officers of Bird, gross mismanagement, abuse of control, waste of corporate assets, unjust enrichment, violations of the Exchange Act, as well as the aiding and abetting thereof.

124. Bird is named solely as a nominal party in this action. This is not a collusive action to confer jurisdiction on this Court that it would not otherwise have.

125. Plaintiff is, and has been at all relevant times, a shareholder of Bird. Plaintiff will adequately and fairly represent the interests of Bird in enforcing and prosecuting its rights, and, to that end, has retained competent counsel, experienced in derivative litigation, to enforce and prosecute this action.

### **DEMAND FUTILITY ALLEGATIONS**

126. Plaintiff incorporates by reference and realleges each and every allegation stated above as if fully set forth herein.

127. A pre-suit demand on the Board of Bird is futile and, therefore, excused. At the time of filing of this action, the Board consists of the following seven individuals: Defendants VanderZanden, Komin, Mutrie, and Russell (the "Director-Defendants"), and non-parties John Ivan Bitove, Antonio Occhionero, and Kevin Talbot (collectively with the Director-Defendants, the "Directors"). Plaintiff needs only to allege demand futility as to four of the seven Directors that were on the Board at the time this action was commenced.

128. Demand is excused as to all of the Director-Defendants because each one of them faces, individually and collectively, a substantial likelihood of liability as a result of the scheme they engaged in knowingly or recklessly to cause the Company to make false and misleading statements and omissions of material fact, all of which renders the Director-Defendants unable to impartially investigate the charges and decide whether to pursue action against themselves and the other perpetrators of the scheme.

1           129. In complete abdication of their fiduciary duties, the Director-Defendants  
2 either knowingly or recklessly participated in causing the Company to make the materially  
3 false and misleading statements alleged herein. The fraudulent scheme was intended, *inter*  
4 *alia*, to make the Company appear more profitable and attractive to investors. As a result  
5 of the foregoing, the Director-Defendants breached their fiduciary duties, face a substantial  
6 likelihood of liability, are not disinterested, and demand upon them is futile, and thus  
7 excused.

8           130. Additional reasons that demand on Defendant VanderZanden is futile follow.  
9 Defendant VanderZanden has served as the Company's Chairman of the Board since  
10 November 4, 2021. He served as the Company's President from November 4, 2021 until  
11 June 29, 2022. He also served as the Company's CEO from November 4, 2021 until  
12 September 21, 2022. Defendant VanderZanden founded Bird Rides in 2017, and previously  
13 served as President and CEO and as a director of Bird Rides from 2017 until November 4,  
14 2021. The Company provides Defendant VanderZanden with his principal occupation for  
15 which he receives handsome compensation as detailed above. As President, CEO, and  
16 Chairman of the Board, Defendant VanderZanden was ultimately responsible for the many  
17 false and misleading statements and omissions that were made, including those contained  
18 in the 3Q21 10-Q, 2021 10-K, 1Q22 10-Q, and 2Q22 10-Q, which he personally signed  
19 and signed SOX certifications for. Moreover, Defendant VanderZanden signed, and thus  
20 personally made, the false and misleading statements contained in the Registration  
21 Statement and Prospectus. The 2022 Proxy Statement, which contained false and  
22 misleading statements, was solicited on his behalf and led to the elections of Defendants  
23 Botha and Sacks to the Board, allowing them to breach their fiduciary duties. As a trusted  
24 Company director, he conducted little, if any, oversight of the scheme to cause the  
25 Company to make false and misleading statements, consciously disregarded his duties to  
26 monitor such controls over reporting and engagement in the scheme, and consciously  
27 disregarded his duties to protect corporate assets. Moreover, Defendant VanderZanden is  
28

1 a defendant in the Securities Class Action. For these reasons, Defendant VanderZanden  
2 breached his fiduciary duties, faces a substantial likelihood of liability, is not independent  
3 or disinterested, and thus demand upon him is futile and, therefore, excused.

4 131. Additional reasons that demand on Defendant Komin is futile follow.  
5 Defendant Komin has served as a Company director since November 4, 2021. He  
6 previously served as a director of Bird Rides from June 2021 until November 4, 2021.  
7 Defendant Komin also serves as the Chair of the Audit Committee. Defendant Komin has  
8 received and continues to receive substantial compensation for his role as a director as  
9 described above. Moreover, Defendant Komin signed, and thus personally made, the false  
10 and misleading statements in the 2021 10-K. The 2022 Proxy Statement, which contained  
11 false and misleading statements, was solicited on his behalf and led to the elections of  
12 Defendants Botha and Sacks to the Board, allowing them to breach their fiduciary duties.  
13 As a trusted Company director, he conducted little, if any, oversight of the scheme to cause  
14 the Company to make false and misleading statements, consciously disregarded his duties  
15 to monitor such controls over reporting and engagement in the scheme, and consciously  
16 disregarded his duties to protect corporate assets. For these reasons, Defendant Komin  
17 breached his fiduciary duties, faces a substantial likelihood of liability, is not independent  
18 or disinterested, and thus demand upon him is futile and, therefore, excused.

19 132. Additional reasons that demand on Defendant Mutrie is futile follow.  
20 Defendant Mutrie has served as a Company director since November 4, 2021. He co-  
21 founded Switchback in 2020 and previously served as Switchback's Co-CEO from  
22 December 2020 until November 4, 2021 and as a director of Switchback from October  
23 2020 until November 4, 2021. Defendant Mutrie also serves as a member of the Audit  
24 Committee. Moreover, Defendant Mutrie signed, and thus personally made, the false and  
25 misleading statements in the Prospectus and 2021 10-K. The 2022 Proxy Statement, which  
26 contained false and misleading statements, was solicited on his behalf and led to the  
27 elections of Defendants Botha and Sacks to the Board, allowing them to breach their  
28



1 fiduciary duties. Defendant Mutrie also solicited the Prospectus, which led to shareholders  
2 approving the Business Combination and the 2021 Plan, under which 17,610,000  
3 Management Reserve shares were granted to Defendant VanderZanden. Moreover,  
4 concurrently with the consummation of the Business Combination, Defendant Mutrie  
5 purchased 430,000 shares of Company stock for a purchase price of \$10.00 per share. As  
6 a trusted Company director, he conducted little, if any, oversight of the scheme to cause  
7 the Company to make false and misleading statements, consciously disregarded his duties  
8 to monitor such controls over reporting and engagement in the scheme, and consciously  
9 disregarded his duties to protect corporate assets. For these reasons, Defendant Mutrie  
10 breached his fiduciary duties, faces a substantial likelihood of liability, is not independent  
11 or disinterested, and thus demand upon him is futile and, therefore, excused.

12 133. Additional reasons that demand on Defendant Russell is futile follow.  
13 Defendant Russell has served as a Company director since November 4, 2021. She  
14 previously served as a director of Bird Rides from February 2021 until November 4, 2021.  
15 Defendant Russell also serves as a member of the Audit Committee. She has received and  
16 continues to receive compensation for her role as a director as described above. Moreover,  
17 Defendant Russell signed, and thus personally made, the false and misleading statements  
18 in the 2021 10-K. The 2022 Proxy Statement, which contained false and misleading  
19 statements, was solicited on her behalf and led to the elections of Defendants Botha and  
20 Sacks to the Board, allowing them to breach their fiduciary duties. As a trusted Company  
21 director, she conducted little, if any, oversight of the scheme to cause the Company to make  
22 false and misleading statements, consciously disregarded her duties to monitor such  
23 controls over reporting and engagement in the scheme, and consciously disregarded her  
24 duties to protect corporate assets. For these reasons, Defendant Russell breached her  
25 fiduciary duties, faces a substantial likelihood of liability, is not independent or  
26 disinterested, and thus demand upon her is futile and, therefore, excused.

27 134. Additional reasons that demand on the Board is futile follow.  
28

1           135. Demand in this case is excused because the Directors are beholden to and  
2 controlled by Defendant VanderZanden, who beneficially owns approximately 74% of the  
3 combined voting power of the Company's outstanding common stock. As a result, the  
4 Company is a "controlled company" within the meaning of the NYSE corporate  
5 governance standards. Accordingly, as stated in the 2021 10-K, Defendant VanderZanden  
6 is able to control matters submitted to the Company's stockholders for approval, including  
7 the election of directors, amendments of the Company's organizational documents and any  
8 merger, consolidation, sale or all or substantially all of the Company's assets or other major  
9 corporate transactions. Moreover, this concentrated control may have the effect of  
10 delaying, preventing, or deterring a change in control of the Company. Thus, Defendant  
11 VanderZanden wields significant control over the continued employments of the Directors.  
12 The Directors are also beholden to Defendant VanderZanden because of the compensation  
13 they receive as Directors. As a result, the Directors are unable to evaluate a demand with  
14 disinterest or independence due to Defendant VanderZanden's control over them.

15           136. Defendants Komin, Mutrie, and Russell (the "Audit Committee Defendants")  
16 served as members of the Audit Committee during the Relevant Period. Pursuant to the  
17 Company's Audit Committee Charter, the Audit Committee Defendants are responsible  
18 for overseeing, *inter alia*, the integrity of the Company's financial statements, the  
19 Company's compliance with legal and regulatory requirements, and the design and  
20 implementation of the Company's internal audit function, and the performance of the  
21 internal audit function after it has been established. The Audit Committee Defendants  
22 failed to ensure the integrity of the Company's financial statements, as they are charged to  
23 do under the Audit Committee Charter, allowing the Company to file false and misleading  
24 financial statements with the SEC and to fail to maintain internal controls. Thus, the Audit  
25 Committee Defendants breached their fiduciary duties, are not disinterested, and demand  
26 is excused as to them.  
27  
28

1           137. In violation of the Code of Conduct, the Director-Defendants conducted little,  
2 if any, oversight of the Company's engagement in the Individual Defendants' scheme to  
3 issue materially false and misleading statements to the public and to facilitate and disguise  
4 the Individual Defendants' violations of law, including breaches of fiduciary duty, gross  
5 mismanagement, abuse of control, waste of corporate assets, unjust enrichment, violations  
6 of the Exchange Act, the aiding and abetting thereof, and for contribution under Sections  
7 10(b) and 21D of the Exchange Act. In violation of the Code of Conduct, the Director-  
8 Defendants failed to maintain the accuracy of Company records including financial  
9 records, disclose accurate and complete information regarding Bird's business, financial  
10 condition, and results of operations, and comply with laws and regulations. Thus, the  
11 Director-Defendants face a substantial likelihood of liability and demand is futile as to  
12 them.

13           138. Bird has been and will continue to be exposed to significant losses due to the  
14 wrongdoing complained of herein, yet the Director-Defendants have not filed any lawsuits  
15 against themselves or others who were responsible for that wrongful conduct to attempt to  
16 recover for Bird any part of the damages Bird suffered and will continue to suffer thereby.  
17 Thus, any demand upon the Director-Defendants would be futile.

18           139. The Individual Defendants' conduct described herein and summarized above  
19 could not have been the product of legitimate business judgment as it was based on bad  
20 faith and intentional, reckless, or disloyal misconduct. Thus, none of the Director-  
21 Defendants can claim exculpation from their violations of duty pursuant to the Company's  
22 charter (to the extent such a provision exists). As all of the Director-Defendants face a  
23 substantial likelihood of liability, they are self-interested in the transactions challenged  
24 herein and cannot be presumed to be capable of exercising independent and disinterested  
25 judgment about whether to pursue this action on behalf of the shareholders of the Company.  
26 Accordingly, demand is excused as being futile.  
27  
28

142. If there is no directors' and officers' liability insurance, then the Director-Defendants will not cause Bird to sue the Individual Defendants named herein, since, if they did, they would face a large uninsured individual liability. Accordingly, demand is futile in that event, as well.

## FIRST CLAIM

45

1           144. Plaintiff incorporates by reference and realleges each and every allegation set  
2 forth above, as though fully set forth herein.

3           145. The Section 14(a) Exchange Act claims alleged herein are based solely on  
4 negligence. They are not based on any allegation of reckless or knowing conduct by or on  
5 behalf of Defendants VanderZanden, Botha, Friedland, Kan, Komin, Mutrie, Russell,  
6 Sacks, McNeill, Carter, Gieselman, Stoutner, Deutch, Kubis, and Owodunni. The Section  
7 14(a) claims alleged herein do not allege and do not sound in fraud. Plaintiff specifically  
8 disclaims any allegations of, reliance upon any allegation of, or reference to any allegation  
9 of fraud, scienter, or recklessness with regard to these nonfraud claims.

10           146. Section 14(a) of the Exchange Act, 15 U.S.C. § 78n(a)(1), provides that “[i]t  
11 shall be unlawful for any person, by use of the mails or by any means or instrumentality of  
12 interstate commerce or of any facility of a national securities exchange or otherwise, in  
13 contravention of such rules and regulations as the [SEC] may prescribe as necessary or  
14 appropriate in the public interest or for the protection of investors, to solicit or to permit  
15 the use of his name to solicit any proxy or consent or authorization in respect of any security  
16 (other than an exempted security) registered pursuant to section 12 of this title [15 U.S.C.  
17 § 78l].”

18           147. Rule 14a-9, promulgated pursuant to § 14(a) of the Exchange Act, provides  
19 that no proxy statement shall contain “any statement which, at the time and in the light of  
20 the circumstances under which it is made, is false or misleading with respect to any material  
21 fact, or which omits to state any material fact necessary in order to make the statements  
22 therein not false or misleading.” 17 C.F.R. § 240.14a-9.

23           148. Under the direction and watch of Defendants Mutrie, McNeill, Carter,  
24 Gieselman, Stoutner, Deutch, Kubis, and Owodunni, the Prospectus failed to disclose, *inter*  
25 *alia*, that: (1) the Company was inaccurately recording Sharing revenue on certain trips  
26 taken by customers of the Company’s Sharing business; (2) as a result, the Company was  
27 overstating its Sharing revenue to the investing public; (3) the Company’s internal controls  
28

1 were ineffective and inadequate in terms of accurately recording and reporting Sharing  
2 revenue; (4) accordingly, the Company was in need of restating the Sharing revenue it  
3 reported as having earned in its SEC filings throughout the Relevant Period; and (5) the  
4 Company failed to maintain internal controls. As a result of the foregoing, the Company's  
5 public statements were materially false and misleading at all relevant times.

6 149. The false and misleading elements of the Prospectus led to Company  
7 shareholders voting, *inter alia*, to: (1) approve the Business Combination and adopt the  
8 Business Combination Agreement; and (2) approve and adopt the 2021 Plan, allowing  
9 certain of the Individual Defendants to be greatly unjustly compensated.

10 150. Moreover, under the direction and watch of Defendants VanderZanden,  
11 Botha, Friedland, Kan, Komin, Mutrie, Russell, and Sacks, the 2022 Proxy Statement failed  
12 to disclose, *inter alia*, that: (1) contrary to the 2022 Proxy Statement's description of the  
13 Board's risk oversight function, the Board failed in the administration of its risk oversight  
14 function, resulting in the Individual Defendants' misconduct and breach of their fiduciary  
15 duties; (2) contrary to the 2022 Proxy Statement's description of the Audit Committee's  
16 responsibilities, the Audit Committee was not adequately exercising these functions, was  
17 causing or permitting the Company to issue false and misleading statements, and the  
18 Individual Defendants on the Board and the Audit Committee at that time were breaching  
19 their fiduciary duties; and (3) although the Company claimed the Code of Conduct applied  
20 to all officers and directors and that it would disclose any waivers of the policy, the  
21 Individual Defendants violated the Code of Conduct either without waivers or without such  
22 waivers being disclosed.

23 151. Furthermore, under the direction and watch of Defendants VanderZanden,  
24 Botha, Friedland, Kan, Komin, Mutrie, Russell, and Sacks, the 2022 Proxy Statement failed  
25 to disclose, *inter alia*, that: (1) the Company was inaccurately recording Sharing revenue  
26 on certain trips taken by customers of the Company's Sharing business; (2) as a result, the  
27 Company was overstating its Sharing revenue to the investing public; (3) the Company's  
28



1 internal controls were ineffective and inadequate in terms of accurately recording and  
2 reporting Sharing revenue; (4) accordingly, the Company was in need of restating the  
3 Sharing revenue it reported as having earned in its SEC filings throughout the Relevant  
4 Period; and (5) the Company failed to maintain internal controls. As a result of the  
5 foregoing, the Company's public statements were materially false and misleading at all  
6 relevant times.

7 152. In the exercise of reasonable care, Defendants VanderZanden, Botha,  
8 Friedland, Kan, Komin, Mutrie, Russell, and Sacks should have known that by  
9 misrepresenting or failing to disclose the foregoing material facts, the statements contained  
10 in the 2022 Proxy Statement were materially false and misleading. The misrepresentations  
11 and omissions were material to Company shareholders in voting on the matters set forth  
12 for shareholder determination in the 2022 Proxy Statement.

13 153. The false and misleading elements of the 2022 Proxy Statement led to  
14 Company shareholders voting, *inter alia*, to: (1) elect Defendants Botha and Sacks to the  
15 Board, allowing them to continue breaching their fiduciary duties to the Company; and (2)  
16 ratify the appointment of Ernst & Young LLP as the Company's independent registered  
17 public accounting firm for the fiscal year ended December 31, 2022.

18 154. The Company was damaged as a result of Defendants VanderZanden's,  
19 Botha's, Friedland's, Kan's, Komin's, Mutrie's, Russell's, Sacks', McNeill's, Carter's,  
20 Gieselman's, Stoutner's, Deutch's, Kubis', and Owodunni's material misrepresentations  
21 and omissions in the Prospectus and the 2022 Proxy Statement.

22 155. Plaintiff on behalf of Bird has no adequate remedy at law.

## 23 **SECOND CLAIM**

### 24 **Against Individual Defendants for Breach of Fiduciary Duties**

25 156. Plaintiff incorporates by reference and realleges each and every allegation set  
26 forth above, as though fully set forth herein.

1           157. Each Individual Defendant owed to the Company the duty to exercise candor,  
2 good faith, and loyalty in the management and administration of Bird's business and  
3 affairs.

4           158. Each of the Individual Defendants violated and breached his or her fiduciary  
5 duties of candor, good faith, loyalty, reasonable inquiry, oversight, and supervision.

6           159. The Individual Defendants' conduct set forth herein was due to their  
7 intentional or reckless breach of the fiduciary duties they owed to the Company, as alleged  
8 herein. The Individual Defendants intentionally or recklessly breached or disregarded their  
9 fiduciary duties to protect the rights and interests of Bird.

10           160. In breach of their fiduciary duties owed to Bird, the Individual Defendants  
11 willfully or recklessly caused the Company to make false and/or misleading statements  
12 and/or omissions of material fact that failed to disclose, *inter alia*, that: (1) the Company  
13 was inaccurately recording Sharing revenue on certain trips taken by customers of the  
14 Company's Sharing business; (2) as a result, the Company was overstating its Sharing  
15 revenue to the investing public; (3) the Company's internal controls were ineffective and  
16 inadequate in terms of accurately recording and reporting Sharing revenue; (4) accordingly,  
17 the Company was in need of restating the Sharing revenue it reported as having earned in  
18 its SEC filings throughout the Relevant Period; and (5) the Company failed to maintain  
19 internal controls. As a result of the foregoing, the Company's public statements were  
20 materially false and misleading at all relevant times.

21           161. The Individual Defendants failed to correct and/or caused the Company to fail  
22 to correct the false and/or misleading statements and/or omissions of material fact,  
23 rendering them personally liable to the Company for breaching their fiduciary duties.

24           162. In further breach of their fiduciary duties, the Individual Defendants failed to  
25 maintain an adequate system of oversight, disclosure controls and procedures, and internal  
26 controls over financial reporting.

1           163. Moreover, during the Relevant Period, one of the Individual Defendants  
2 breached his fiduciary duties by engaging in insider sales for proceeds of \$474,578.

3           164. The Individual Defendants had actual or constructive knowledge that the  
4 Company issued materially false and misleading statements, and they failed to correct the  
5 Company's public statements and representations. The Individual Defendants had actual  
6 knowledge of the misrepresentations and omissions of material facts set forth herein, or  
7 acted with reckless disregard for the truth, in that they failed to ascertain and to disclose  
8 such facts, even though such facts were available to them. Such material misrepresentations  
9 and omissions were committed knowingly or recklessly and for the purpose and effect of  
10 artificially inflating the price of Bird's securities and disguising insider sales.

11           165. The Individual Defendants had actual or constructive knowledge that they had  
12 caused the Company to improperly engage in the fraudulent schemes set forth herein and  
13 to fail to maintain internal controls. The Individual Defendants had actual knowledge that  
14 the Company was engaging in the fraudulent schemes set forth herein, and that internal  
15 controls were not adequately maintained, or acted with reckless disregard for the truth, in  
16 that they caused the Company to improperly engage in the fraudulent schemes and to fail  
17 to maintain adequate internal controls, even though such facts were available to them. Such  
18 improper conduct was committed knowingly or recklessly and for the purpose and effect  
19 of artificially inflating the price of Bird's securities and disguising insider sales.

20           166. These actions were not a good-faith exercise of prudent business judgment to  
21 protect and promote the Company's corporate interests.

22           167. As a direct and proximate result of the Individual Defendants' breaches of  
23 their fiduciary obligations, Bird has sustained and continues to sustain significant damages.  
24 As a result of the misconduct alleged herein, the Individual Defendants are liable to the  
25 Company.

26           168. Plaintiff on behalf of Bird has no adequate remedy at law.  
27  
28

### **THIRD CLAIM**

#### **Against Individual Defendants for Unjust Enrichment**

169. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

170. By their wrongful acts, violations of law, and false and misleading statements and omissions of material fact that they made and/or caused to be made, the Individual Defendants were unjustly enriched at the expense of, and to the detriment of, Bird.

171. The Individual Defendants either benefitted financially from the improper conduct and their engaging in insider transactions tied to the false and misleading statements, or received bonuses, stock options, or similar compensation from Bird that was tied to the performance or artificially inflated valuation of Bird, or received compensation that was unjust in light of the Individual Defendants' bad faith conduct.

172. Plaintiff, as a shareholder and a representative of Bird, seeks restitution from the Individual Defendants and seeks an order from this Court disgorging all profits, including from insider transactions, benefits, and other compensation, including any performance-based or valuation-based compensation, obtained by the Individual Defendants due to their wrongful conduct and breach of their fiduciary and contractual duties.

173. Plaintiff on behalf of Bird has no adequate remedy at law.

### **FOURTH CLAIM**

#### **Against Individual Defendants for Abuse of Control**

174. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

175. The Individual Defendants' misconduct alleged herein constituted an abuse of their ability to control and influence Bird, for which they are legally responsible.

176. As a direct and proximate result of the Individual Defendants' abuse of control, Bird has sustained significant damages. As a direct and proximate result of the

1 Individual Defendants' breaches of their fiduciary obligations of candor, good faith, and  
2 loyalty, Bird has sustained and continues to sustain significant damages. As a result of the  
3 misconduct alleged herein, the Individual Defendants are liable to the Company.

4 177. Plaintiff on behalf of Bird has no adequate remedy at law.

#### 5 **FIFTH CLAIM**

##### 6 **Against Individual Defendants for Gross Mismanagement**

7 178. Plaintiff incorporates by reference and realleges each and every allegation set  
8 forth above, as though fully set forth herein.

9 179. By their actions alleged herein, the Individual Defendants, either directly or  
10 through aiding and abetting, abandoned and abdicated their responsibilities and fiduciary  
11 duties with regard to prudently managing the assets and business of Bird in a manner  
12 consistent with the operations of a publicly-held corporation.

13 180. As a direct and proximate result of the Individual Defendants' gross  
14 mismanagement and breaches of duty alleged herein, Bird has sustained and will continue  
15 to sustain significant damages.

16 181. As a result of the misconduct and breaches of duty alleged herein, the  
17 Individual Defendants are liable to the Company.

18 182. Plaintiff on behalf of Bird has no adequate remedy at law.

#### 19 **SIXTH CLAIM**

##### 20 **Against Individual Defendants for Waste of Corporate Assets**

21 183. Plaintiff incorporates by reference and realleges each and every allegation set  
22 forth above, as though fully set forth herein.

23 184. As a further result of the foregoing, the Company will incur many millions of  
24 dollars of legal liability and/or costs to defend unlawful actions, to engage in internal  
25 investigations, and to lose financing from investors and business from future customers  
26 who no longer trust the Company and its products.

185. As a result of the waste of corporate assets, the Individual Defendants are each liable to the Company.

186. Plaintiff on behalf of Bird has no adequate remedy at law.

### **SEVENTH CLAIM**

#### **Against Defendants VanderZanden and Ling for Contribution Under Sections 10(b) and 21D of the Exchange Act**

187. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

188. Bird, along with Defendants VanderZanden and Ling, are named as defendants in the Securities Class Action, which asserts claims under the federal securities laws for violations of Sections 10(b) and 20(a) of the Exchange Act, and SEC Rule 10b-5 promulgated thereunder. If and when the Company is found liable in the Securities Class Action for these violations of the federal securities laws, the Company's liability will be in whole or in part due to Defendants VanderZanden and Ling's willful and/or reckless violations of their obligations as controlling shareholder, officers, and/or directors of Bird.

189. Defendants VanderZanden and Ling, because of their positions of control and authority as controlling shareholder, officers, and/or directors of Bird, were able to and did, directly and/or indirectly, exercise control over the business and corporate affairs of Bird, including the wrongful acts complained of herein and in the Securities Class Action.

190. Accordingly, Defendants VanderZanden and Ling are liable under 15 U.S.C. § 78j(b), which creates a private right of action for contribution, and Section 21D of the Exchange Act, 15 U.S.C. § 78u-4(f), which governs the application of a private right of action for contribution arising out of violations of the Exchange Act.

191. As such, Bird is entitled to receive all appropriate contribution or indemnification from Defendants VanderZanden and Ling.

### **PRAYER FOR RELIEF**

FOR THESE REASONS, Plaintiff demands judgment in the Company's favor against all Individual Defendants as follows:



1 (a) Declaring that Plaintiff may maintain this action on behalf of Bird, and  
2 that Plaintiff is an adequate representative of the Company;

3 (b) Declaring that the Individual Defendants have breached and/or aided  
4 and abetted the breach of their fiduciary duties to Bird;

5 (c) Determining and awarding to Bird the damages sustained by it as a  
6 result of the violations set forth above from each of the Individual Defendants, jointly and  
7 severally, together with pre-judgment and post-judgment interest thereon;

8 (d) Directing Bird and the Individual Defendants to take all necessary  
9 actions to reform and improve its corporate governance and internal procedures to comply  
10 with applicable laws and to protect Bird and its shareholders from a repeat of the damaging  
11 events described herein, including, but not limited to, putting forward for shareholder vote  
12 the following resolutions for amendments to the Company's Bylaws or Certificate of  
13 Incorporation and the following actions as may be necessary to ensure proper corporate  
14 governance policies:

15 1. a proposal to strengthen the Board's supervision of operations and  
16 develop and implement procedures for greater shareholder input into the policies  
17 and guidelines of the Board;

18 2. a provision to permit the shareholders of Bird to nominate at least four  
19 candidates for election to the board; and

20 3. a proposal to ensure the establishment of effective oversight of  
21 compliance with applicable laws, rules, and regulations.

22 (e) Awarding Bird restitution from the Individual Defendants, and each of  
23 them;

24 (f) Awarding Plaintiff the costs and disbursements of this action, including  
25 reasonable attorneys' and experts' fees, costs, and expenses; and

26 (g) Granting such other and further relief as the Court may deem just and  
27 proper.  
28

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

Dated: March 17, 2023

Respectfully submitted,

**THE BROWN LAW FIRM, P.C.**

/s/ Robert C. Moest

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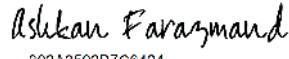
*Counsel for Plaintiff*

**VERIFICATION**

I, Ashkan Farazmand am a plaintiff in the within action.

I have reviewed the allegations made in this shareholder derivative complaint, know the contents thereof, and authorize its filing. To those allegations of which I have personal knowledge, I believe those allegations to be true. As to those allegations of which I do not have personal knowledge, I rely upon my counsel and their investigation and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 3th day of 12/2023, 2023.

DocuSigned by:  
  
303A3593B7C6424...  
ASHKAN F. FARAZMAND